

Application to the Office of Rail Regulation for a passenger track access agreement, or amendment to a passenger track access agreement under sections 17-22A of the Railways Act 1993

1. Introduction

Please use this form to apply to the Office of Rail Regulation (ORR) for:

- directions under section 17 of the Railways Act 1993 for a new track access contract. Section 17 allows companies who want the right to use a railway facility (including Network Rail's network) to apply to ORR for access if they are not able (for whatever reason) to reach agreement with the facility owner.
- approval under section 18 of the Railways Act 1993 for a new track access contract. Section 18 allows companies to apply for approval if they have agreed terms with the facility owner.
- approval of a proposed amendment (agreed by both parties) under section 22 of the Railways Act 1993 to an existing track access contract.
- directions under section 22A of the Railways Act 1993 for an amendment to an existing track access contract. Section 22A allows anyone seeking an amendment to an existing track access contract which allows the operation of more extensive services to apply for a compulsory amendment if they are not able (for whatever reason) to reach agreement with the facility owner.

If it is the facility owner, Network Rail will carry out a pre-application consultation. In this case fill in this form up to section 7.3. You should fill in the rest of the form after the consultation and before applying to ORR. If you are unhappy with the facility owner carrying out the consultation, you should ask ORR to do so. If this is the case, you should complete this form in full before submitting it to us.

The form sets out ORR's standard information requirements for considering applications. It cross-refers throughout to our [criteria and procedures](#) (C&Ps). The C&Ps explain the process, timings and the issues we will expect to consider. You should use the published [model passenger track access contract](#) as your starting point when drafting the contract or amendments you want. Please read the C&Ps and the Code of Practice before applying.

We are happy to talk to you before you apply. Please contact us [here](#).

You can download a copy of this form, and of ORR's model track access contract, from the ORR website: www.rail-reg.gov.uk.

2. The application

2.1 Title of proposed contract or supplemental agreement (please also include the section of the Railways Act 1993 under which you are applying):

Grand Central Railway Company Limited Track Access Contract made under section 17 of the Railways Act 1993

2.2 Contact details (Company and named individual for queries):

| <u>Facility Owner</u> | <u>Beneficiary</u> |
|--|--|
| Company: Network Rail | Company: Grand Central |
| Contact individual: Daniel Grover | Contact individual: Jonathan Cooper on behalf of Grand Central |
| Job title: Customer Manager | Job title: Head of Contracts |
| Address: Network Rail Northern House, 9 Rougier St, York, YO1 6HZ | Address: Alliance Rail Holdings 88 The Mount York YO24 1AR |
| Telephone number: 07515626122 | Telephone number: 01904 628904 |
| E-mail address: Daniel.grover@networkrail.co.uk | E-mail address: jc@alliancerail.co.uk |

2.3 Licence and railway safety certificate: please state whether you intend to operate the services yourself or have them operated on your behalf.

Does the proposed operator of the services (a) hold a valid train operating licence under section 8 of the Railways Act 1993 or an exemption under section 7, **and** (b) hold a valid safety certificate under the Railways and Other Guided Transport Systems (Safety) Regulations 2006. If the answer to (a) **or** (b) is no, please state the point reached in obtaining a licence, exemption and/or safety certificate.

C&Ps paras 3.9-3.15

The train operator holds a valid train operating licence and an accepted safety certificate. The services will be operated by Grand Central.

3. The proposed contract or amendment

3.1 Executive summary: please provide an executive summary of the proposed contract or amendment. This should cover the services, the commercial terms, and the reasons for making the application in the terms proposed. This information should be laid out clearly and concisely, and fully highlight the changes from the previous version of the contract (in the case of an amendment).

C&Ps para 3.22-3.28

Please also explain any important safety risks that have been identified arising from the proposal and how these will be controlled (by reference to the facility owner's safety authorisation and the train operator's safety certificate). **C&Ps paras 4.9-4.11**

Please also state the commencement and end dates for the proposal, and for new agreements or extensions to existing agreements, provide justification for the proposed length of the application, with reference to the [Railways Infrastructure \(Access and Management\) Regulations 2005](#). If you are a franchised operator, please state the expiry date of your franchise. **C&Ps paras 4.72-4.79**

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Form **P**

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Date of commencement: Principal Change Date in December 2014

End date: Principal Change Date in December 2026

The key reason for making the application now is to progress the leasing of a suitable fleet to operate the services in the future (currently expected to be a uniform Class 180 fleet) and to start the planning work to make sure that the investment in this fleet can roll out in 2016/17.

This application is made under the section 17 process of the Railways Act 1993. This application is for a new contract for Grand Central to cover all of its services currently contained in two separate track access contracts. The new contract commences at the Principal Change Date in December 2014 and is for ten years (from the expiry date of the existing contracts) based upon commercial justification supplied to ORR.

This will include significant investment in the rolling stock to improve reliability, including moving to a uniform fleet of trains as appropriate. In addition, subject to affordability and final agreement with stakeholders and Network Rail, Grand Central will re-instate the disused platform at Hartlepool. If these criteria are not met, any investment funds not used for this scheme will be reallocated to other schemes. This will allow greater flexibility and capacity at Hartlepool and allow the network at this location to be planned more efficiently.

In addition Grand Central intends to invest in other areas at other stations, notably car parking and improved passenger facilities.

3.2 Terms not agreed with the facility owner (for applications under sections 17 or 22A only): please set out here any areas of the application which have **not** been agreed, the reasons for the failure to agree and the reasons for seeking these provisions. ***C&Ps para 3.102***

Agreement has been reached on every detail with the exception of the level of flexibility Network Rail requires within Schedule 5.

3.3 Departures from ORR's model passenger track access contract: please set out and explain here any:

- areas where the drafting of the application changes ORR's published template passenger track access contract (as appropriate, cross-referencing to the answers below). Please also explain why these departures have been made. **C&Ps paras 2.34-2.37**
- instances where the proposal departs from the charging and/or performance regimes established by ORR's latest periodic review (or subsequent interim reviews) as reflected in ORR's model passenger track access contract, including the financial implications (e.g. establishment of an access charge supplement or rebate). **C&Ps paras 5.1-5.44**
- new processes (e.g. a self-modification provision) which have been added. Please also demonstrate fully how this new process is robust and complete. **C&Ps paras 6.2-6.3**

This agreement is based upon the Passenger Track Access Model Contract, which is intended for franchised operators. Therefore this contract has been amended to reflect use for Open Access. In addition amendments have been made in relation to RPI updates and to reflect the recent changes to Part D of the Network Code.

In addition we have bespoke table 3.1 (a) and (b) that relate to intervals. These tables reflect the interval arrivals and departures at London King's Cross.

A reopener has been included for "Events" identified in the Network Code.

4. The expression of access rights and the use of capacity

4.1 Benefits: please set out what specific benefits the proposal will achieve, including a justification for requiring the rights and their characteristics. Please provide full descriptions of any new rights required, as compared to the previous contract (in the case of an amendment). Please also describe any significant changes in the pattern of services, their benefits to passengers and any impact on other operators, including freight operators. Where appropriate, please provide a fully marked-up version or document comparison of any tables in Schedule 5 which are being modified as a result of this application. **C&Ps paras 4.26-4.35**

The proposed contract merges the two existing contracts on Grand Central into one contract.

In drafting this new contract we have taken note of the requirement for flexibility to allow Network Rail to plan the network when a recast is proposed and for timetables where the basic structure is unchanged. Grand Central has proposed a reopener clause to deal with "Events" as defined in the Network Code. In addition we have reviewed the level of flexibility we believe Network Rail requires when flexing within an existing timetable structure. From this review we have removed the existing Departure Time range protection and moved to a new interval protection with a flex of +/-30 minutes.

Journey Time Protection is retained but expanded to cover all services.

4.2 Adequacy: please set out how you have satisfied yourself that there is enough network capacity for the services in the proposal. Please also set out whether there are any implications for overall network performance and the facility owner's maintenance and renewal activities. **C&Ps paras 4.12-4.45**

The train paths are currently operating and have been fully validated by Network Rail.

4.3 Flexing rights: please provide a general description of the extent of any limitations on the facility owner's flexing rights in the proposal. Please provide the rationale for the extent of any limitation on the flex provided, including any changes to pre-existing services, and the extent to which the provisions have been agreed with the facility owner. **C&Ps paras 2.27-2.33**

The rights sought provide a great level of flexibility for Network Rail and the industry so that most efficient use of capacity can be made to develop a new timetable. The level of flexibility sought is far greater than was included in the two existing Grand Central contracts.

4.4 Journey time protection: please describe whether the proposed contract gives journey time protection to any services (by establishing maximum journey times, fastest key journey times or maximum key journey times), and explain the reasons for this, with reference to ORR's criteria. **C&Ps paras 8.90-8.103**

Maximum Journey times have been sought and Network Rail has not objected to these save the extent of flex. These exist in the current contract; however a small number of services did not have protection. These services have now been included in the Journey Time Protection

4.5 Specified equipment: please give full details of any changes to specified equipment (rolling stock), including timescales, and how much of the vehicle and route acceptance procedure in the Network Code (Part F) has been completed. Please explain whether you have, or will have, the rolling stock necessary to exercise the rights being sought. **C&Ps paras 8.87-8.90**

No changes

4.6 Franchise obligations: please explain whether the proposed services are necessary to fulfil obligations under a franchise or concession agreement. **C&Ps paras 4.3-4.4**

Not applicable

4.7 Public funding: please state whether (and if so to what extent) the proposed services are subject to financial support from central or local government (other than the Department for Transport or Transport Scotland), including Passenger Transport Executives. Please also provide a point of contact at that body. **C&Ps paras 3.52, 4.25, 4.35-4.39**

Not applicable.

4.8 Passenger Focus and, where applicable, London TravelWatch: please state whether (and if so to what extent) the proposed services have been discussed with these bodies. Please also provide copies of any relevant correspondence. **C&Ps para 4.39**

These services currently operate so no specific discussion has taken place.

4.9 Route utilisation strategies (RUSs): if applicable, please state which RUSs (including the Freight RUS) are considered relevant to this application and whether the proposed rights are consistent with that RUS. If the proposed rights are not consistent, please explain the reasons for this. **C&Ps paras 4.5-4.8**

The ECML RUS contains a number of references to the applicability of Grand Central's services to both the North East and West Yorkshire. In particular direct LDHS services to destinations off the ECML (Section 6).

5. Incentives

5.1 Train operator performance: please describe any planned projects associated with the operation of the proposed services aimed at improving your performance. **C&Ps paras 4.26-4.36**

Significant investment in the fleet is proposed:

- Major half- life refurbishment of the fleet building on the data gained from 3 years of Alstom service support contract through the remote condition monitoring systems. These were fitted in the last 6 months
- The move to a uniform fleet allowing will allow more flexible deployment
- Improved SRTs from Class 180s, coupled with the flexibility on Access Rights afforded to Network Rail, will allow the development of more robust timetables
- A uniform fleet of Class 180s with better SRTs will fit better into a recast ECML timetable - particularly post IEP.
- This also reduces overall industry costs because the HSTs will not need to be fitted with ERTMS.

5.2 Facility owner performance: please describe any planned projects associated with the operation of the proposed services aimed at improving the facility owner's own performance. **C&Ps paras 4.26-4.36, 5.1**

Subject to affordability and final agreement with stakeholders and Network Rail, Grand Central will reinstate the disused platform at Hartlepool. This will allow greater flexibility and capacity at Hartlepool which will allow the network at this location to be used more efficiently particularly during perturbation. If these criteria are not met, any investment funds not used for this scheme will be reallocated to other schemes.

5.3 Monitoring of services: would all proposed services be monitored for performance throughout their journeys, consistent with our policy in paragraph 5.50 of the criteria and procedures? If not, please state the reasons for this is in line with the permissible circumstances described in paragraph 5.51 of the criteria and procedures. **C&Ps paras 5.50-5.56**

The existing schedule 8 remains albeit merged into one contract.

5.4 Performance regime changes (for applications under sections 17 or 22A only): where applicable, please provide justification for any changes to Schedule 8 of the track access contract in the proposal. If necessary, please provide any relevant information in support of the changes proposed. **C&Ps para 5.38-5.40**

None

6. Enhancement

6.1 Enhancement details: where the proposal provides for the delivery of any network enhancements, or the services in the proposal are subject to any planned network enhancements, please give full details of the relevant enhancement schemes, including a summary of outputs from the scheme, timescales and the extent to which the network change procedure in the Network Code (Part G) has been completed (where appropriate, by reference to submissions made under ORR's enhancement reporting framework). **C&Ps paras 4.80**

Hartlepool Station platform reinstatement (see 5.2).

In addition Grand Central intends to invest in other areas at other stations, notably car parking and improved passenger facilities.

6.2 Enhancement charges: please confirm that the arrangements for the funding of any network enhancements are consistent with ORR's [Policy Framework for Investments](#), and summarise the level and duration of payments, and the assumed rate of return (see chapter 3 of the Conclusions document). **C&Ps paras 5.6, 5.12-5.14**

This area is still under discussion with the relevant parties.

7. Other

7.1 Associated applications to ORR: please state whether this application is being made in parallel with, or relates to, any other current or forthcoming application to ORR (e.g. in respect of track, station or light maintenance depot access contracts). **C&Ps paras 3.18-3.19**

It is proposed that there will be two additional supplemental agreements progressed to terminate the current Grand Central access rights. However, we recognise the need for discussion with ORR on this matter.

7.2 Supporting information, side letters and collateral agreements: please:

- state here any relevant information in support of the proposal, including a list and explanation of any other material being submitted (and supply copies with the application). **C&Ps para 4.33**
- confirm here that the whole of the proposal between the parties has been submitted with this application and that there are no side letters or other documents which affect it. **C&Ps paras 6.12-6.16, 6.21**

Grand Central has provided more detailed information to the ORR, outlining the significant investment to be undertaken in the areas identified in this application.

This information is commercially confidential.

7.3 Confidentiality exclusions: please list any parts of your application which you have excluded on the grounds of confidentiality, from the version of the proposed contract sent to consultees for any pre-application consultation process, and provide reasons. If there has been no pre-application consultation, you should state any parts of the application and proposed contract you want us to exclude from publication. **C&Ps paras 3.29-3.34**

The letter from Richard McClean to Brian Hopkinson dated 9th September 2013 in respect of investment.

Note: Where a pre-application consultation is to be undertaken in line with the Code of Practice, the remainder of this application should not be completed until after that consultation has been completed

8. Pre-application consultation

8.1 The consultation: has a pre-application consultation been carried out in line with the Code of Practice? If yes, please:

- state who conducted the consultation;
- list all train operators, franchising authorities and any other parties that were consulted, stating which parties responded and attach their responses and any associated documentation to this form; and
- state the period allowed for the consultation. If this was less than 28 days, please explain the reasons for this.

If a pre-application consultation has not been carried out, please explain the reasons and whether any informal discussions have been held with any third parties who might be affected by this application and the nature of any concerns which they raised. **C&Ps paras 3.62**

The consultation was carried out by Network Rail. We received 6 industry responses only East Coast raised a formal objection. The following were consulted: ✕

8.2 Resolved issues: please set out any issues raised by consultees which have been satisfactorily resolved. You may wish to refer to responses attached to this form. Please explain any changes as a result of the consultation.

Annex A to this application contains all the responses received and responses sent. Alliance believes that all the issues raised have been dealt with satisfactorily.

8.3 Unresolved issues: please set out any issues raised by consultees which have ***not*** been satisfactorily resolved, including any correspondence with that consultee. You may wish to refer to responses attached to this form. Please explain why you think these issues should not stop ORR approving the application.

Annex A to this application contains all the responses received and responses sent. Alliance believes that all the issues raised have been dealt with satisfactorily.

9. Certification

Warning: Under section 146 of the Railways Act 1993, any person who, in giving any information or making any application under or for the purposes of any provision of the Railways Act 1993, makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular, is guilty of an offence and so liable to criminal prosecution **C&Ps para 3.40**

In the case of agreed applications under section 18 or 22, Network Rail should fill in the required information in the box below. For disputed applications under section 17 or 22A, the applicant should fill in the required information.

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I certify that the information provided in this form is true and complete to the best of my knowledge

Signed Date



10th September 2012

Name JONATHAN COOPER

Job title ...Head of Contracts

For (company) Alliance Rail on behalf of Grand Central Railway Company Limited

10. Submission

10.1 What to send: please supply, in hard copy, the signed application form, one copy of the proposed contract or amendment, with copies of any documents incorporated by reference (other than established standard industry codes or other documents) and any other attachments, supporting documents or information. **C&Ps para 3.39**

Please also supply the application form, the proposed contract or amendment and, where possible, any other supporting information, in electronic form, by e-mail or on disc, **in plain Microsoft Word format** (i.e. excluding any macros, auto-para or page numbering, or other auto-formatting). **C&Ps Para 3.37-3.38**

10.2 Where to send it:

Manager, Track Access Team
Directorate of Railway Markets and Economics
Office of Rail Regulation
One Kemble Street
London
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